

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT :	Scheinman, <i>et al.</i>	CONFIRMATION No. :	3808
SERIAL NUMBER :	10/588,138	EXAMINER :	Jurie Yun
INTERNATIONAL FILING DATE :	February 12, 2007	ART UNIT :	2882
FOR :	CONTRABAND DETECTION SYSTEMS AND METHODS		

COMMUNICATION REGARDING PATENT TERM ADJUSTMENT

Applicants received a Notice of Allowance and Fees Due from the U.S. Patent and Trademark Office, mailed on August 12, 2009, which stated that the Patent Term Adjustment under 35 U.S.C. 154(b) to date is 0 days. This Communication is submitted in view of Applicants' duty under 37 C.F.R. 1.765.

Applicants note that the Patent Term Adjustment associated with the filing the Response to Notification of Missing Requirements was not accounted for in the Office's Patent Term Adjustment calculation. In accordance with 37 C.F.R. 1.765, Applicants' duty of candor and good faith toward the Office, Applicants submit that the Patent Term Adjustment should have an additional 37 days of Applicant delay in connection with this filing, which is discussed in more detail below.

Further, Applicants note that the Notice of Acceptance of Application listed the wrong date as the 371 completion date, specifically the date should be July 2, 2007, which is also discussed in more detail below.

The National Stage of the instant application commenced under 35 U.S.C. §371 (b)/(f) on July 31, 2006, and is therefore subject to the patent term adjustment procedures set forth in 37 C.F.R. §§ 1.702 to 1.705 for applications filed on or after May 29, 2000.

On February 26, 2007, the Office mailed a Notification of Missing Requirements. This notification was not listed in the transaction history of the application in the USPTO records. A copy of the Notification is submitted as Exhibit B.

On July 2, 2007, Applicants filed a Response to Notification of Missing Requirements with a three month extension of time and satisfied the requirements of 35 U.S.C. 371. This

Response was filed 37 days after the date that is three months after the mailing date of the Notification. A copy of the Response is submitted as Exhibit C. As discussed above, in accordance with 37 C.F.R. 1.765, Applicants' duty of candor and good faith toward the Office, Applicants submit that the Patent Term Adjustment should have an additional **37 days** of Applicant delay in connection with this filing.

On September 21, 2007, the Office mailed the Notice of Acceptance of Application (a copy of which is enclosed as Exhibit D), which indicated that the Date of Completion of All 371 Requirements was February 12, 2007. However, Applicants submit that the Completion date is July 2, 2007, *i.e.* the date the Response to Notification of Missing Requirements was filed. Applicants have calculated the Patent Term Adjustment using July 2, 2007 as the 371 Completion date.

On March 17, 2008, the Office mailed a Restriction Requirement. The Restriction Requirement was mailed within fourteen month requirement for mailing of the first action after the date on which the application fulfilled the requirements of 35 U.S.C. §371.

On June 11, 2008, Applicants filed a Response to Restriction Requirement with a two month extension of time. This Response was filed within three months after the mailing date of the Restriction Requirement.

On September 23, 2008, the Office mailed a Non-Final Office Action. This Action was mailed within the four months of the filing of the reply filed under 35 U.S.C. §132.

On March 19, 2009, Applicants filed a Response to Non-Final Office Action with a three month extension of time. This Response was filed 86 days after the date that is three months after the mailing date of the Non-Final Office Action. As shown in the PAIR printout submitted as Exhibit A, the number of days of Patent Term Adjustment accounts for the 86 day Office delay.

On May 14, 2009, the Office mailed the Notice of Allowance/Notice of Allowability, and the Determination of Patent Term Adjustment for this application. This Notice was mailed within the four months of the filing of the reply filed under 35 U.S.C. §132.

On July 9, 2009, Applicants filed a Request for Continued Examination. This Request was filed within three months after the mailing date of the Notice.

On August 12, 2009, the Office mailed the Notice of Allowance/Notice of Allowability, and the Determination of Patent Term Adjustment for this application. The Notice was mailed

within the four month requirement for the USPTO to respond to a reply filed under 35 U.S.C. §132. The Determination of Patent Term Adjustment noted an adjustment period for this patent application of 0 days. As indicated in Exhibit A, the Office delay for this application is indicated as 0 days and Applicants' delay is 86 days.

According to the provisions of 37 C.F.R. §1.702(b), Applicants are entitled to Patent Term Adjustment for the failure of the Office to issue the patent within three years after the date on which the application was filed. Under 37 C.F.R. §1.702(b)(1)-(5), Applicants are entitled to this adjustment for any time other than time consumed by continued examination of the application requested by the applicant under section 132(b), beginning on the date on which a Request for Continued Examination was filed, July 9, 2009, and ending on the date the patent issues.

The amount of the Adjustment under 37 C.F.R. §1.702(b) is calculated from August 1, 2009 (*i.e.*, the day after the date that is three years from the date that the National Stage commenced), through the day before the date the Request for Continued Examination was filed, *i.e.* July 8, 2009, subtracting only time legitimately attributable to Applicant delay. Applicants submit that the Request for Continued Examination was filed prior to the date that this three years from the date the application was filed and that the Adjustment under 37 C.F.R. §1.702(b) is 0 days.

Applicants have calculated the Patent Term Adjustment based on 37 C.F.R. 1.702(a), 37 C.F.R. 1.702(b) and 37 C.F.R. 1.704 through the mailing of the Notice of Allowance. The total calculation of Patent Term Adjustment is as follows: Office delay under 37 CFR 1.702(a) is 0 days; Office Delay under 37 CFR 1.702(b) is 0 days; and Applicant delay under 37 CFR 1.704(c) is: $37+86 = 123$ days;,, adjustment is $0+0-123 = 0$ days.

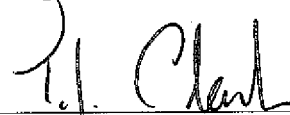
Applicants reserve the right to request any further patent term adjustment based on the actual issue date of the instant application.

U.S.S.N.: 10/588,138

Applicant: Scheinman, *et al.*

If the Office would like to discuss any aspect of this filing, the Office representative assigned to process this request is welcome to call the undersigned attorney. No fee is believed to be due by submission of this paper. However, the Office is authorized to charge any such fees, or to credit any overpayment in fees to Deposit Account No. **50-0311**, Customer Number **30623**, Attorney Docket No. 25960-013 NATL.

Respectfully submitted,



T.J. Clark, Reg. No. 54,039

Attorney for Applicants

MINTZ, LEVIN, COHN, FERRIS,

GLOVSKY AND POPEO, PC

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Boston, MA 02111

Tel.: (617) 542-6000

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Customer No. 30623

Date: November 11, 2009

4753757v.1

Exhibit A

10/588,138 CONTRABAND DETECTION SYSTEMS AND METHODS

10-30-
2009::13:16:32**Patent Term Adjustments**

Patent Term Adjustment (PTA) for Application Number: 10/588,138

Filing or 371(c) Date:	02-12-2007	USPTO Delay (PTO) Delay (days):	0
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	86
Post-Issue Petitions (days):	+0	Total PTA (days):	0
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
08-12-2009	Mail Notice of Allowance		
08-12-2009	Notice of Allowance Data Verification Completed		
08-12-2009	Document Verification		
07-09-2009	Information Disclosure Statement considered		
07-09-2009	Reference capture on IDS		
07-09-2009	Information Disclosure Statement (IDS) Filed		
07-15-2009	Date Forwarded to Examiner		
07-15-2009	Date Forwarded to Examiner		
07-09-2009	Request for Continued Examination (RCE)		
07-15-2009	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		
07-09-2009	Information Disclosure Statement (IDS) Filed		
07-09-2009	Workflow - Request for RCE - Begin		
05-14-2009	Mail Notice of Allowance		
05-12-2009	Notice of Allowance Data Verification Completed		
05-12-2009	Document Verification		
04-01-2009	Date Forwarded to Examiner		
03-19-2009	Response after Non-Final Action		86
03-19-2009	Request for Extension of Time - Granted		↑
09-23-2008	Mail Non-Final Rejection		↑
09-22-2008	Non-Final Rejection		
08-25-2008	Correspondence Address Change		
08-25-2008	Date Forwarded to Examiner		
06-11-2008	Response to Election / Restriction Filed		
06-11-2008	Request for Extension of Time - Granted		
03-17-2008	Mail Restriction Requirement		
03-03-2008	Requirement for Restriction / Election		
02-14-2008	Case Docketed to Examiner in GAU		
02-03-2008	Case Docketed to Examiner in GAU		
11-20-2007	IFW TSS Processing by Tech Center Complete		
02-12-2007	371 Completion Date		

09-21-2007	Application Dispatched from OIPE
09-21-2007	Notice of DO/EO Acceptance Mailed
06-28-2007	PG-Pub Issue Notification
03-19-2007	Correspondence Address Change

[Close Window](#)

Exhibit B



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/588,138	Elan D. Scheinman	25960-013 NATL

INTERNATIONAL APPLICATION NO.

PCT/US05/04675

I.A. FILING DATE	PRIORITY DATE
02/11/2005	02/11/2004

35437

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
 666 THIRD AVENUE
 NEW YORK, NY 10017

COPY

CONFIRMATION NO. 3808

371 FORMALITIES LETTER



OC000000022611832

Date Mailed: 02/26/2007

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 07/31/2006
- Copy of the International Search Report filed on 07/31/2006
- U.S. Basic National Fees filed on 07/31/2006
- Priority Documents filed on 07/31/2006

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
<https://portal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

JOHN L ANDERSON

Telephone: (703) 308-9140 EXT 211

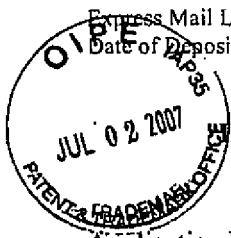
PART 2 - OFFICE COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/588,138	PCT/US05/04675	25960-013 NATL

Exhibit C

Express Mail Label No.: EV 781046636 US
Date of Deposit: July 2, 2007

Docket No. 25960-013 NATL



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number : 10/588,138 Confirmation No. 3808
Applicant : Elan D. Scheinman, et al.
Filed : July 31, 2006
International
Application No. : PCT/US05/04675
Examiner : Not Yet Assigned
For : CONTRABAND DETECTION SYSTEMS AND METHODS

COPY

MAIL STOP MISSING PARTS

Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U. S. C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

In response to the Notification of Missing Requirements Under 37 U. S. C. 371 in the United States Designated/Elected Office (DO/EO/US) mailed February 26, 2007, the time for response having been extended by the accompanying Petition for three-month extension of time until July 26, 2007 and associated fee of \$1,020.00 (Check No. 3883). Applicants also submit herewith a Declaration and Power of Attorney, a copy of the Notification of Missing Requirements Under 37 U. S. C. 371 in the United States Designated/Elected Office (DO/EO/US) and a fee due of \$130.00 (Check No. 3884), for a large entity, as required by 37 C.F.R. 1.492(h) With the aforementioned extension of time, this response is now due on or before July 26, 2007.

Express Mail Label No.: EV 781046636 US
Date of Deposit: July 2, 2007

Docket No. 25960-013 NATL

The Director is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Ref. No. 25960-013 NATL, Customer Number: 35437.

Respectfully submitted,

Dated: July 2, 2007



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UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/588,138	Elan D. Scheinman	25960-013 NATK

INTERNATIONAL APPLICATION NO.

PCT/US05/04675

I.A. FILING DATE	PRIORITY DATE
02/11/2005	02/11/2004

Becton, Dickinson and Company
David W. Highet
1 Becton Drive, Mail Code 110
Franklin Lakes, NJ 07417-1880

COPY

CONFIRMATION NO. 3808

371 ACCEPTANCE LETTER



OC000000022980410

Date Mailed: 09/21/2007

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

<u>02/12/2007</u>	<u>02/12/2007</u>
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 07/31/2006
- Copy of the International Search Report filed on 07/31/2006
- Oath or Declaration filed on 02/12/2007
- U.S. Basic National Fees filed on 07/31/2006
- Priority Documents filed on 07/31/2006

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

JOHN L ANDERSON

Telephone: (703) 308-9140 EXT 211

PART 3 - OFFICE COPY

FORM PCT/DO/EO/903 (371 Acceptance Notice)